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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/825,593

04/16/2004

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EXAMINER

PAK, MICHAEL D

ART UNIT

PAPER NUMBER

1646

MAIL DATE

DELIVERY MODE

07/11/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Amendment

1. Amendment filed April 4, 2008 has been entered.
2. Applicant's arguments filed April 4, 2008, have been fully considered but they are not found persuasive.
3. Claims 36-37 and 39-43 are examined below. Claims 1-22, 24-30, 32-34, 38, and 44-56 are withdrawn. Claims 23, 31, and 35 are cancelled.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 36-37 and 39-43 are rejected under 35 U.S.C. 102(b) as being anticipated by McElroy (US 6,323,236).

McElroy teach a method of administering tenidap for treatment of major depression (column1, lines 45-55; column 8, line 35). The administration of beta-

adrenergic receptor modulator is optional. Tenidap inherently treats major depression when administered and modulates P2X7R activity.

Applicants argue that ICD treatment of McElroy is separate from the major depression as shown by DSM-IV-TR. However, McElroy specifically state that ICDs may be related to mood disorder or may be forms of affective spectrum disorder, a hypothesized family of disorders sharing at least one common physiologic abnormality with major depression (column 1, lines 45-49). Thus, McElroy clearly intends to teach treatment of major depression.

Applicants argue that sulfamates of McElroy is different from the claimed Tenidap. However, McElroy teach the administration of tenidap along with sulfamates (column 8, line 35). Thus McElroy teach treatment with tenidap which inherently is a modulator of P2X7R.

Applicants argue that McElroy use tenidap only as an anti-inflammatory drugs to be used in combination with sulfamates and thus is not used to treat major depression. However, McElroy teach treatment of major depression because McElroy teach that ICDs are form of major depression and McElroy teach administration of tenidap. Thus, McElroy teach administration of tenidap to treat major depression. Tenidap inherently is a modulator of P2X7R.

5. No claim is allowed.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pak whose telephone number is 571-272-0879. The examiner can normally be reached on 8:00 - 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on 571-272-0835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael Pak/
Primary Examiner, Art Unit 1646
5 July 2008

Application/Control Number:
10/825,593
Art Unit: 1646

Page 5